REMARKS

Claim 7 is amended, and claims 1-20 are currently pending. In light of the following remarks, the applicant requests withdrawal of the pending rejections and advancement of this application to allowance.

A. Claim Objections

The office action objected to claims 7-15 because it is not clear whether the housing set forth in claims 7 and 10 is a part of the pump or whether the housing is part of the form factor. The applicant respectfully submits that the housing is affirmatively set forth in the claim and is a part of the pump. The claim also defines the form factor of the housing as being hand-held.

The office action requests amendment of claim 7 to insert the word "a" between the words "having" and memory." The applicants have amended claim 7 accordingly. This amendment does not narrow the scope of claim 7 in any way.

B. Rejection of Claims Under 35 U.S.C. § 103

1. Claims 1-3 and 6

Claims 1-3 and 6 stand rejected as being obvious over Peterson (U.S. Patent 5,788,669) in view of Eggers (U.S. Patent 5,713,857) and in further view of Ertel (U.S. Patent 5,307,262). The applicant respectfully traverses this rejection and does not concede the characterizations of the cited references or the claimed invention set forth in the office action.

Claim 1 (and dependent claims 2, 3, and 6) sets forth batch-down loading the plurality of data items into memory within the pump, and controlling operation of the pump based on one or more of the data items.

The office action admits that "Peterson in view of Eggers does not teach or suggest batch-downloading the plurality of data items into the memory within the pump and controlling operation of the pump based on one or more data times." It then cited passages from Ertel for the proposition that "batch downloading data is well known in the medical equipment industry."

However, Ertel does not teach or suggest batch downloading in the medical equipment industry, and in fact, it is not at all related to medical equipment. Rather, it is

directed to computerized methods and systems for reviewing the accuracy, completeness, and overall quality of patient data required for hospital payment claims such as for Medicare and other insurers. See, e.g., col. 1, ll. 6-16 and col. 5, ll. 40-58. The teaching is directed to downloading patient data for analysis of insurance payments. It does not teach or suggest downloading operation parameters to medical devices, nor does it teach downloading pump parameters for controlling operation of a medical pump.

Therefore, the applicant respectfully submits that no combination of the cited references would result in batch-downloading the plurality of data items into the memory within the pump and controlling operation of the pump based on one or more data times. Even if they did, for the sake or argument and without admission, Ertel is directed to analyzing the quality of hospital claims data—not medical devices. One skilled in the art of medical devices would not have been motivated to combine the teachings of Ertel with the teachings of Peterson or Eggers. The applicant submits that claims 1-3 and 6 are patentably distinct from the cited references and requests withdrawal of the pending rejection.

2. Claims 7-20

Claims 7-20 stand rejected as being obvious over Peterson (U.S. Patent 5,788,669) in view of Eggers (U.S. Patent 5,713,857), in view of Official Notice and in view of Ertel (U.S. Patent 5,307,262) and Klein (U.S. Patent 6,714,969). The applicant respectfully traverses this rejection and does not concede the characterizations of the cited references or the claimed invention set forth in the office action.

Claim 7 (and claims 8 and 9), claim 10 (and dependent claims 11-15), and claim 16 (and claims 17-20) set forth program data items being patient-specific for controlling operation of a medical pump and a database management system programmed to batch download data to the memory within the medical pump.

The claimed invention was distinguished from Peterson, Eggers, and Ertel above. These references fail to teach or suggest patient-specific data items for controlling operation of a medical pump and batch downloading data to the memory within the medical pump.

Klein is directed to a hand-held scanning device. Its disclosure teaches applications such as bard-code scanning for "point of sale processing or inventorying;

portable, cellular video conferences by traveling business users; and digital photography/image capture for insurance assessors, sales professionals among many other applications that will be apparent to those skilled in the art. . . ." See, e.g., col. 10, ll. 53. It does not teach or suggest any applications for medial pumps as set forth in the claims. Klein also fails to teach or suggest batch-downloading the plurality of data items into the memory within the pump and controlling operation of the pump based on one or more data times.

The Official Notice does not relate to program data items being patient-specific for controlling operation of a medical pump. Nor does the Official Notice relate to a database management system programmed to batch download data to the memory within the medical pump

Therefore, the applicant respectfully submits that no combination of the cited references would result in program data items being patient-specific for controlling operation of a medical pump and a database management system programmed to batch download data to the memory within the medical pump. Even if they did, for the sake or argument, neither Ertel nor Klein are directed to medical devices and one skilled in the art would not have motivation to combine the teachings of Ertel or Klein with the teachings of Peterson or Eggers. The applicant submits that claims 7-20 are patentably distinct from the cited references and requests withdrawal of the pending rejection.

3. Claims 4 and 5

Claims 4 and 5 stand rejected as being obvious over Peterson (U.S. Patent 5,788,669) in view of Eggers (U.S. Patent 5,713,857), in view of Ertel (U.S. Patent 5,307,262) as applied to claim 3 and further in view of "Acute Health Solutions." The applicant respectfully traverses this rejection and does not concede the characterizations of the cited references or the claimed invention set forth in the office action.

Claims 4 and 5 depend from claim 1 and also set forth batch-down loading the plurality of data items into memory within the pump, and controlling operation of the pump based on one or more of the data items.

This claimed combination of elements was distinguished above from Peterson and Eggers. These references fail to teach or suggest batch-downloading the plurality of data items into the memory within the pump and controlling operation of the pump based on

one or more data times. Acute Health Solutions also fails to teach or suggest these elements.

Therefore, the applicant respectfully submits that no combination of the cited references would result in batch-downloading the plurality of data items into the memory within the pump and controlling operation of the pump based on one or more data times. The applicant submits that claims 4 and 5 are patentably distinct from the cited references and requests withdrawal of the pending rejection.
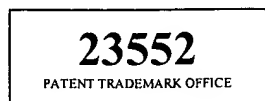
C. Conclusion

In view of the foregoing remarks, the applicant respectfully requests withdrawal of the pending rejection and advancement of this application to issuance. The applicant also notes that there may be additional reasons that the claimed invention is patentably distinct form the cited references in addition to those raised in the above remarks. The applicant reserves the right to raise any such reason in the future.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact the undersigned attorney at (612) 336-4608.

Respectfully submitted,

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PATENT TRADEMARK OFFICE

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11